

## **§ 253.15**

Any hearings on employee appeals will be heard in the Republic of Panama.

### **§ 253.15 Appeals procedures.**

The Panama Canal Board of Appeals shall formulate the procedures necessary to the performance of the functions prescribed by section 1222 of the Panama Canal Act. Those portions of the procedures establishing time limits for filing appeals, the form in which appeals are to be submitted, and the circumstances under which the personal appearance of an employee or his representative will be authorized, shall be published for the information of all employees.

### **§ 253.16 Effective date of decisions.**

(a) Decisions of the Panama Canal Board of Appeals shall be binding upon all employing agencies, and shall be effective not later than the beginning of the fourth pay period following the receipt of the decision in the employing agency unless a specific date is stated in the decision in accordance with paragraph (b) of this section.

(b) When the appeal to the Panama Canal Board of Appeals is made within 30 calendar days from the date of an employee's receipt of an adverse decision from his employing agency on a classification appeal provided by § 253.13, if it is from an action lowering the grade or pay level of the employee's position, and the decision of the Panama Canal Board of Appeals raises the grade or pay level of the position, the effective date shall be retroactive to the date of the action which lowered the grade or pay level. However, when the decision of the Panama Canal Board of Appeals raises the grade or pay level of the position above the grade or pay level in effect immediately preceding the lowering thereof, retroactivity will apply only to the extent of restoration to the grade or pay level in effect immediately preceding the lowering thereof. Retroactivity may be based only on duties and responsibilities existing at the time of the lowering of the grade or pay level and not on the basis of duties and responsibilities later assigned.

(c) The right to a retroactive effective date under paragraph (b) of this section may be preserved in the discre-

## **35 CFR Ch. I (7-1-00 Edition)**

tion of the Panama Canal Board of Appeals upon a showing by the employee that reasons beyond his control prevented him from appealing within the 30-day period referred to in that subparagraph and that he did appeal as promptly as circumstances permitted.

### **Subpart B—Filling Positions**

#### **§ 253.31 Authority of appointing officers; methods of filling vacancies.**

(a) Appointing officers of an agency shall effect personnel actions in accordance with the regulations in this part.

(b) In his discretion an appointing officer may fill any position either by competitive appointment from a Panama Canal Employment System register, by appointment or position change of a present or former Federal employee through noncompetitive action in accordance with the regulations in this part, or, when authorized under § 253.43, by temporary appointment. Except as otherwise provided in the regulations in this part, the appointing officer shall exercise his discretion in all personnel actions solely on the basis of merit and fitness. In determining merit and fitness of any person, there shall be no discrimination on the basis of nationality or citizenship, religious or political affiliations, marital status, physical handicap, race, color, sex, age, or national origin.

#### **§ 253.32 [Reserved]**

#### **§ 253.33 Positions restricted to veterans of United States Armed Forces.**

The provisions of 5 CFR 330.401, 330.402 and 330.403 apply in their entirety.

#### **§ 253.34 Disqualification of applicants.**

An applicant may be denied examination and an eligible may be denied appointment for any of the reasons set forth below. A person disqualified for any of the listed reasons may, in the discretion of the PAPB, be denied examination, or denied appointment to any position, for such period as it may determine.

(a) Dismissal from employment for delinquency or misconduct.

## Panama Canal Regulations

## § 253.38

(b) Physical or mental unfitness for the position for which applied.

(c) Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct.

(d) Intentional false statements or deception or fraud in examination or appointment.

(e) Habitual use of narcotics or habitual use of intoxicating beverages to excess.

(f) In the case of citizens of the United States, reasonable doubt as to the loyalty of the person involved to the Government of the United States.

(g) In the case of non-United States citizens, reasonable doubt that the person involved would refrain from committing acts inimical to the interests of the Government of the United States.

(h) Refusal to furnish testimony in regard to matters inquired of arising under the regulations in this chapter, or refusal to furnish testimony in connection with investigations conducted pursuant to Executive Order 10450 of April 1953. (3 CFR, 1949-1953 Comp., p. 936.)

(i) Any legal or other disqualification which makes the applicant unfit for the service.

### § 253.35 Appointments subject to investigation.

(a) All initial appointments or re-appointments made under this part shall be subject to such investigation as may be required to establish the appointee's qualifications and suitability for employment.

(b) Except in cases involving intentional false statements, or deception or fraud in examination or appointment, the condition "subject to investigation" automatically expires at the end of 1 year after the effective date of the appointment.

(c) For a period of 1 year after the effective date of any appointment subject to investigation, the head of the agency may remove the employee if investigation discloses that he is disqualified for any of the reasons listed in § 253.34. Thereafter removal may be required only on the basis of intentional false statements or deception or fraud in examination or appointment.

### § 253.36 Prohibited practices.

(a) *Coercion in competition.* An applicant for competitive examination, eligible on any register, or officer or employee in the executive branch of the Government may not directly or indirectly persuade, induce, or coerce, or attempt to persuade, induce, or coerce any prospective applicant to withhold filing application, or any applicant or eligible to withdraw from competition or eligibility for the purpose of either improving or injuring the prospects of any applicant or eligible for appointment. The penalty for violation of this section by applicants or eligibles shall be cancellation of application or eligibility, as the case may be. The penalty for violation of this section by an employee shall be as determined by the head of the agency.

(b) *Instruction of applicants.* Employees are forbidden to instruct, either directly or indirectly, or to be concerned in any manner with the instruction of any person or classes of persons with a view to their special preparation for examinations conducted pursuant to the regulations in this part, except as a part of a government authorized or sponsored program. Violations of this restriction shall be considered sufficient cause for removal from the service.

### § 253.37 Examinations.

The Manager, CEO shall be responsible for conducting open competitive examinations for entrance into the service which will fairly test the relative capacity and fitness of the persons examined for the position to be filled. When sufficient competent persons are not available to provide competition, the Manager, CEO may, with the consent of the employing agency, examine and certify for competitive appointment fewer than three individuals.

### § 253.38 Rating competitors.

(a) The subjects in examinations shall be given such relative weight as the Central Examining Office may prescribe and the same rating scale shall be applied to all persons competing in the same examination. Earned ratings will be augmented for eligible veterans in accordance with the provisions of 5